

Notice of Allowability

Application No.

10/816,457

Examiner

Ethan Whisenant, Ph.D.

Applicant(s)

BENSON, NICHOLAS R.

Art Unit

1634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the paper(s) filed 16 AUG 06.
2. ☒ The allowed claim(s) is/are 7, 18-19, 36, 51, 120-138 and 140-154, now renumbered as Claims 1-39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

NOTICE OF ALLOWABILITY

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed on 16 AUG 06 in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 16 AUG 06 has now been entered. **Claim(s) 7, 18-19, 36, 41, 51, 120-154** is/are now pending.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this Examiner's amendment was given by Lisa Haile on 14 SEP 06 during a telephone interview.

Amend **Claim 7** as follows : amend part b) to read:

b) detecting expression of the nucleic acid molecules in the epidermal sample by determining a Ct value.

Amend **Claim 36** as follows : amend part b) to read:

b) detecting expression of the nucleic acid molecules in the epidermal sample by determining a Ct value before and after treatment.

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Amend **Claim 51** as follows : amend part c) to read:

c) comparing expression of the target nucleic acid molecule with expression of a control nucleic acid molecule in the same experiment using the same sample volumes and probes, wherein altered expression of the target nucleic acid molecule as compared with expression of the control nucleic acid molecule is determined by calculating a Ct value wherein altered expression is indicative of psoriasis, thereby diagnosing psoriasis in the subject.

Amend **Claims 146, 147, 149 and 150** to read:

146. The method of claim 145 wherein the disease or pathological state is psoriasis.

147. The method of claim 145 wherein the treatment is Etanercept, Clobetasol, Alefacept, or narrow band ultraviolet-B light.

149. The method of claim 148 wherein the disease or pathological state is psoriasis.

150. The method of claim 148 wherein the treatment is Etanercept, Clobetasol, Alefacept, or narrow band ultraviolet-B light.

Cancel **Claims 41 and 139**

REASON FOR ALLOWANCE

2. Claim(s) 7, 18-19, 36, 51, 120-138 and 140-154 are allowable over the prior art of record because the prior art considered does not teach or reasonably suggest the methods recited in Claims 7, 18, 19, 36, 51, 145, 148, 151 and 153. In particular, the closest prior art Vogt [US 2003/0108896(2003)] and /or Rheins et al. [US 6,949,338

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(2205)] do not teach or reasonably suggest, either alone or in combination with the other prior art considered, the methods recited in Claims 7, 18, 19, 36, 51, 145, 148, 151 and 153.

CONCLUSION

3. Claim(s) 7, 18-19, 36, 51, 120-138 and 140-154 is/are allowable for the reason(s) of record and have now been renumbered as Claims 1-39 as shown below.

Old #	7	18	19	36	51	120	121	122	123	124	125	126	127	128	129	130
New #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

Old #	131	132	133	134	135	136	137	138	140	141	142	143	144	145	146	147
New #	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32

Old #	148	149	150	151	152	153	154
New #	33	34	35	36	37	38	39

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ethan Whisenant, Ph.D. whose telephone number is (571) 272-0754. The examiner can normally be reached Monday-Friday from 8:30AM - 5:30PM EST or any time via voice mail. If repeated attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla, can be reached at (571) 272-0735.

The Central Fax number for the USPTO is (571) 273-8300. Please note that the faxing of papers must conform with the Notice to Comply published in the Official Gazette, 1096 OG 30 (November 15, 1989).



ETHAN WHISENANT
PRIMARY EXAMINER

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